
Chapter II – Management Framework

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Management Framework

INTRODUCTION

Administration of the land and water areas and associated environmental resources within the study area requires a coordinated effort between several entities that have varying degrees of management responsibility. In addition, several existing land use authorizations have been issued by the Bureau of Reclamation (Reclamation) to third parties for the use of public lands within the study area. Existing land uses, as well as existing environmental conditions, can be described as "limiting factors" to development. Reclamation cannot interfere with the legal rights previously granted to another party. Reclamation has an obligation to coordinate its planning activities with adjacent private and public landowners to ensure that authorized uses of its lands are compatible with adjacent land uses. The purpose of this chapter is to describe the existing policies and management responsibilities of involved agencies that may influence future development – the management framework.

MANAGEMENT RESPONSIBILITIES

Bureau of Reclamation

Reclamation maintains primary jurisdiction of the lands and associated resources within the study area and is responsible for the environmental resources; however, some of the resources, such as oil and gas and the fishery, are the responsibility of other entities, as explained later in this chapter. Reclamation administers all use authorizations for land and water areas at Canyon Ferry Reservoir. Reclamation oversees Montana Fish, Wildlife and Parks (MFWP) operations of the Wildlife Management Area (WMA) within the study area to ensure that the terms and conditions of the agreement are adhered to. Reclamation will work with MFWP to ensure that the fishery is managed according to their fisheries management plan for the Upper Missouri River. In providing proper stewardship of public lands, Reclamation is responsible for implementing and enforcing all Federal laws, regulations, and Executive orders (E.O.) dealing with natural resources, such as the Endangered Species Act; National Historic Preservation Act; Fish and Wildlife Coordination Act; E.O.s 11644 and 11989, Off-Road Vehicles; E.O. 11889, Floodplains; E.O. 11990, Wetlands Protection; E.O. 12962, Recreational Fisheries; E.O. 13007, Sacred Sites; and E.O. 13186, Conservation of Migratory Birds. As such, Reclamation has ultimate responsibility for protecting and managing most of the resources within the study area.

In addition, Reclamation policies and procedures govern the use of its lands and water areas and may affect the way certain lands are managed now and in the future. Some of these policies and procedures are described in the following sections.

Recreation.—Through Public Law (P.L.) 89-72, as amended, Reclamation is encouraged to seek State and local partners in managing the recreation resources on its lands. Throughout the 17 Western States, Reclamation has numerous successful partnerships with non-Federal entities. In other instances and pursuant to P.L. 89-72, Reclamation has transferred jurisdiction of its lands to other Federal agencies as National Recreation Areas, National Wildlife Refuges, or as National Forest lands if the Reclamation project is within or adjacent to a National Forest System. If Reclamation lands are transferred to another Federal agency, all resources, including recreation, are managed using the rules, regulations, and funding sources of that agency. When neither a non-Federal or Federal partner can be obtained, Reclamation manages its lands and resources pursuant to existing laws and regulations and specific Reclamation authorities and limitations. This is currently the case at Canyon Ferry Reservoir. Approximately 21 reservoir areas in the 17 Western States are managed directly by Reclamation in the absence of a managing partner. See Chapter III, Planning Issues, Opportunities, and Constraints, for further discussion of Reclamation efforts to secure managing partners.

Outgrants.—All land-use activities for specific use of Reclamation lands and water areas are authorized and managed under outgrants such as license agreements, lease agreements, right-of-way easements, special use permits, and other legal and binding contracts (see figure V-16, Special Use Permits). Each authorization is subject to specific terms and conditions covering the use of the Federal estate. Lessees are restricted from conveying their permitted use to another party without the approval of Reclamation. Reclamation's Montana Area Office (MTAO) has copies of all authorized conveyance documents dealing with third-party use of Reclamation lands. Outgrants are to be issued only when they will not interfere with Reclamation project purposes; they are to be, for the most part, temporary in nature and contain restrictive language that protects present and future Federal land interests.

A portion of the Land Use Authorization Directives and Standards states that Reclamation will prohibit any new exclusive/semiprivate use of Reclamation land unless directed otherwise in specific authorizing legislation and that existing private/semiprivate use will be eliminated when the use authorization expires unless a formal planning process determines that there is a significant public need and benefit for the exclusive private/semiprivate use and the land is not needed for other public or project purposes. The Land Use Authorization Directives and Standards discussed here do not apply to private exclusive use, which may exist within concession areas. See "Concessions" discussed later in this chapter for details regarding exclusive use within concession areas.

In addition, Reclamation issues permits for all improvements within easements, such as culverts and bridges, pipelines, and utilities. Special use permits are also considered for rock

collecting, archeological investigation, airports, wells, mineral exploration and extraction (including sand and gravel), fire protection facilities, surface water use, and material storage. Pesticide application on Reclamation lands requires a plan and permit.

Acquisition of Reclamation Lands.—The basis for both acquisition and retention of title to all land and land rights by Reclamation is to protect the authorized project purpose and to comply with related Federal laws, regulations, and Executive orders. The original project purposes of irrigation, flood control, power, and navigation were supplemented later with fish and wildlife conservation and recreation when these latter purposes became pressing national issues.

Canyon Ferry lands were acquired under the authority of the Flood Control Act of December 22, 1944, P.L. 534, by either acquiring fee title to the land from private individuals or entities or by withdrawing land from public domain by Executive or Secretarial order under a "first form" withdrawal, reserving the lands in Federal ownership for the construction and maintenance of irrigation works and other project purposes.

Disposition/Disposal of Reclamation Lands.—Pursuant to Section 204 of the Federal Land Policy and Management Act of October 21, 1976, Reclamation must review all its withdrawn lands to determine if they are needed for project purposes. Withdrawn lands not needed for project purposes should be returned to the public domain for administration by the Bureau of Land Management (BLM) or some other Federal agency that had original jurisdiction.

In the case of acquired lands, Reclamation must make a determination that the acquired lands are no longer needed for project purposes and are excess lands. These lands are reported as excess to the General Services Administration (GSA). GSA first offers the lands for sale to other Federal, State, or local public entities; if these entities do not want the lands, they are put up for sale through public bid at established fair market and competitive prices.

Sale of Lease Lots.—The 1999 Omnibus Appropriations Bill passed in October 1998 as P.L. 105-277. Title X, The Canyon Ferry Reservoir, Montana Act, as amended, requires that the Secretary of the Interior sell the 265 recreational cabin sites at Canyon Ferry Reservoir, Montana, to private parties. The sale of these lease lots began in June 2002 and, as of January 2003, 216 lots have been sold to the current lessees. The remaining lessees have until 2014 to purchase their lots. See appendix B for a complete description of P.L. 105-277.

Off-Road Vehicle Use.—Off-road vehicle (ORV) use policy was formulated in 43 Code of Federal Regulations, Part 420, to protect the land resource, promote the safety of all users, minimize conflicts among land users, and ensure that any permitted use would not result in significant adverse environmental impacts or cause irreversible damage to existing ecological

balances. The policy states that, "Reclamation lands are closed to ORV use, except for an area or trail specifically opened to use of ORVs. . ." Areas permitted for ORV use are to be evaluated and the use to be judged compatible with adjacent private and public lands. The policy includes further rules and restrictions for ORVs on permitted lands. E.O.s 11644, February 8, 1972, and 12608, September 9, 1987, provide further guidance on managing ORVs if such lands are officially opened to ORV use.

Concessions.—Reclamation authorizes and manages concessions on its lands pursuant to Reclamation's *Concession Policy, Directives and Standards*. Reclamation and any managing partners will ensure that concessions are developed and managed to meet public needs, protect natural and heritage resources, provide stewardship of all lands and waters, and to provide a variety of goods and services to the public while being consistent with authorized project purposes. All concessionaires make individual business decisions to enter into legal, binding contracts with Reclamation for operating commercial businesses on Federal lands for a specified period of time. Among other things, the right of renewal, fixed assets, trailer lease sites, and the length of a contract are governed by the existing terms and conditions of the contract. The terms and conditions of the existing contract are not changed without mutual consent of both parties. Reclamation policy outlines the procedure to decide who is entitled to the new concession opportunity upon expiration of an existing contract. The existing concessionaire will have to compete with other bidders who officially respond to the bid package (prospectus) sent out by Reclamation. This prospectus will contain enough detailed information to allow each bidder to submit their respective proposal(s) for the operation of a commercial business to Reclamation for evaluation and selection.

Before issuing a concession prospectus and request for proposal, Reclamation will complete a formal Commercial Services Plan (CSP). At a minimum, the CSP must determine the number of concessions necessary to meet the public needs, the type of facilities and services to be provided, the financial feasibility of the concession(s), and the location(s) appropriate for commercial activities. Public involvement will be an integral part of any commercial services planning effort. Public involvement will be initiated early and continued throughout the commercial services planning process. An appropriate level of environmental analysis will also be conducted.

A financial feasibility evaluation will be considered commensurate with the types of facilities, goods, and services to be provided and other factors that may influence the incoming concession operation. Information such as estimated fees to be returned to the United States, justification for the proposed length of the concessions contract, and any underlying assumptions regarding the concessionaire's capital investment in the concession operation should be addressed in the CSP.

Reclamation's Concession's Management Policy states that "Exclusive use¹ of the Federal estate will not be allowed, and existing exclusive use will be removed as soon as possible." Exclusive use, as discussed here, applies only to concession-operated areas. Exclusive private/semi-private use outside of a concession area is addressed in separate Reclamation directives and standards. See "Outgrants," previously discussed in this chapter, for a discussion on exclusive private/semiprivate land use authorizations.

The Office of Inspector General (OIG) has prepared a report, dated May 2000 (Report No. 00-I-376), that addresses all concessions managed by Reclamation. At all Reclamation reservoirs and pursuant to the OIG report, Reclamation has agreed to:

- R** Establish and implement an oversight process to ensure that concessions comply with existing contract provisions, especially in the areas of building improvements, annual inspections, and prices charged by the concessionaires to the public
- R** Complete and issue detailed guidance and procedures to fully implement the new policies, directives, and standards
- R** Develop a formal action plan to assess and correct the health and safety deficiencies and degradation of land and water resources within the concessionaire area
- R** Establish a review process to ensure that all new concessions and newly issued and reissued contracts are in compliance with Reclamation's policies, directives, and standards
- R** Develop a formal action plan to bring Reclamation-managed contracts into compliance with its policies, directives, and standards

In addition, the OIG identified the 10 most significant contract provisions that need to be contained in each concession permit. The 10 major contract provisions needed for effective management of concession operations are:

- R** Contractor default
- R** Building improvements
- R** Operation and maintenance (O&M) plans

¹ Exclusive use is any use that excludes other appropriate public recreation use or users for extended periods of time. Exclusive use includes, but is not limited to, boat docks, cabins, trailers, manufactured or mobile homes, structures, roads, or other amenities that are determined by Reclamation to be exclusive use.

- R Title to fixed assets
- R Franchise fees
- R Exclusive use
- R Prices charged for services
- R Safety program
- R Recordkeeping
- R Operations review and evaluation

Fire Management.—Pursuant to the Secretary of the Interior’s policy letter dated January 18, 2001, Reclamation is required to address the implementation actions contained in the updated 2001 Federal Wildland Fire Management Policy document. The 2001 Wildland Fire Management Policy states, among other things, that every area with burnable vegetation must have an approved Fire Management Plan. Fire Management Plans are strategic plans that define a program to manage wildland and prescribed fires based on the area’s approved land management plan. Fire Management Plans must provide for firefighter and public safety; include fire management strategies, tactics, and alternatives; address values to be protected and public health issues; and be consistent with resource management objectives, activities of the area, and environmental laws and regulations. Fire management planning, preparedness, prevention, suppression, fire use, restoration and rehabilitation, monitoring, research, and education will be conducted on an interagency basis with the involvement of cooperators and partners. Accordingly, Reclamation will work with State, Tribal, and non-Federal organizations, as well as other Federal agencies, in implementing the 2001 Federal Wildland Fire Management Policy.

Helena Valley Irrigation District

Canyon Ferry Reservoir provides water for the Helena Valley west of Canyon Ferry Dam for the principle purposes of supplying irrigation and municipal water for Helena, Montana. Features include a supply penstock, pumping plant, discharge line, tunnel, dam and regulating reservoir, canals, laterals, drains, and other facilities necessary to irrigate 16,440 acres and provide water for municipal and industrial purposes. The Helena Valley Irrigation District (HVID) is responsible for O&M of the distribution works beyond the point of delivery by Reclamation. In 1975, HVID began operating and maintaining all constructed facilities, except the supply penstock, Helena Valley pumping plant, and the discharge line. In 1991, the O&M

of all remaining features were transferred to HVID. Reclamation retains oversight of the O&M through periodic inspections and assessments. Refer to "Affected Environment" in the "Hydrology" section of chapter V for a discussion of how the reservoir water supply is managed for irrigation purposes.

The pumping plant, located below the left abutment of the dam, is in an area the bald eagles use to stage in the fall. A staging area is a site where migrating wildlife can rest, eat, and rebuild their body energy for continuing their migration. Since there are seasonal closures in the area, the HVID is interested in opening the stretch of the river that is under the annual closure so they can access the pumping plant for maintenance purposes.

Montana Fish, Wildlife and Parks

Reclamation contracts with MFWP to manage the Canyon Ferry WMA at the southern end of the reservoir. In August 1992, MFWP approved the Canyon Ferry Wildlife Management Plan. The goal of the plan is to provide productive habitat for the diversity of wildlife species that use the area and provide for consumptive and nonconsumptive uses of those resources. The Canyon Ferry WMA includes dust abatement dikes with waterfowl nesting habitat, land for wildlife production, about 1,000 acres of agricultural leases, irrigation canals, and access roads. Reclamation provides the office for MFWP staff at the Canyon Ferry WMA.

MFWP is the lead agency for fisheries management in the State of Montana, including the Upper Missouri River (of which Canyon Ferry Reservoir is an integral part). In January 2000, MFWP issued the *Upper Missouri River Reservoir Fisheries Management Plan, 2000-2009*. This plan addresses the fisheries of Canyon Ferry, Hauser, and Holter Reservoirs, the Missouri River from Toston to Townsend, and between Hauser and Holter Reservoirs. The plan provides a framework for continued public involvement in monitoring and evaluating fisheries management activities and specific goals and strategies for those bodies of water.

MFWP has several divisions within its organization. Each division has differing degrees of responsibility concerning the management and oversight of the fish and wildlife within the State of Montana. MFWP has responsibility for primarily the fish and wildlife resources within the reservoir area as opposed to recreation resources (except for the enforcement of boating regulations on the water surface).

Enforcement Division.—The Enforcement Division is responsible for enforcing all the fish and game laws of Montana, MFWP rules, and MFWP Commission regulations. Division personnel also enforce State boating and snowmobile rules and State park regulations, as well as private property laws and hunting and fishing regulations.

Wildlife Division.—The Wildlife Division is responsible for managing all species of wildlife, including big game, threatened and endangered species, upland game and nongame birds, and waterfowl in the State.

Fisheries Division.—The Fisheries Division is responsible for the management and perpetuation of Montana’s fish and other aquatic resources.

Conservation Education Division.—The Conservation Education Division acts as a clearing-house for information on MFWP activities and news items to the media and conducts a variety of educational and recreation-safety programs.

Parks Division.—The Parks Division is responsible for development, maintenance, and operation of all State parks and affiliated sites, with an objective of providing diverse recreational opportunities while preserving important historical and heritage resources within Montana.

Field Services Division.—The Field Services Division is responsible for MFWP’s lands program and construction projects as well as its Block Management (public hunting access) and landowner-hunter relations programs.

Administration and Finance Division.—The Helena-based Director’s Office staff makes major policy and administrative decisions. Regional supervisors handle on-the-ground implementation of policies and programs. The Administration and Finance Division is responsible for budgeting, accounting, purchasing, personnel, data processing, and administration of MFWP’s licensing functions.

Lewis and Clark and Broadwater County Sheriff's Departments

Lewis and Clark and Broadwater County Sheriff's Departments enforce State and local laws on Reclamation-controlled lands at Canyon Ferry Reservoir. Reclamation has entered into agreements with both counties to have the Sheriff's Offices provide extra patrols on Canyon Ferry lands.

Montana Department of Justice Highway Patrol

The Highway Patrol Division is the traffic law enforcement division of the Montana Department of Justice. The Montana Highway Patrol is responsible for highway traffic safety

management for the State of Montana, including investigations, enforcement, and education. Highway Patrol officers patrol highways within the State to ensure that traffic is moving safely, to provide assistance to highway users, and to prevent accidents. In addition, officers respond to requests for assistance from other city, county, State, and Federal law enforcement agencies.

Montana Department of Natural Resources and Conservation, Division of Forestry

Reclamation has entered into an agreement with the Montana Department of Natural Resources and Conservation, Division of Forestry, to provide wildfire protection for the Reclamation-administered lands in Lewis and Clark County.

Broadwater County Silos Recreation Management Agreement

Reclamation has entered into a 10-year agreement with Broadwater County to manage part of the Silos Recreation Area for public recreation and resource uses. Broadwater County will manage, operate, and maintain all public recreation facilities in the area granted to them. Broadwater County can add new facilities, charge and retain fees for use of the facilities, and develop commercial services in their area. Reclamation will retain primary jurisdiction over the area. Any development or changes in management practices will be accomplished in a manner consistent with this Resource Management Plan/Environmental Assessment.

Broadwater County Rural Fire District

Reclamation has an agreement with the Broadwater County Rural Fire District to provide wildland and structural fire protection on Reclamation lands within Broadwater County. Satellite stations at the communities of Winston and Duck Creek can be backed up further by stations at Toston and Radersburg.

Canyon Ferry Volunteer Fire Department

The Canyon Ferry Volunteer Fire Department, under the guidance of the Canyon Ferry Fire Service Area Board of Trustees, provides structural and wildland fire protection within the Canyon Ferry Fire District in Lewis and Clark County. The Canyon Ferry Volunteer Fire Department has two fire stations; one is located on East Shore Drive at Magpie Bay, and the other is near Yacht Basin on West Shore Drive. Equipment staged at these two locations includes two 1,500-gallon tenders, two brush trucks, two engines for structural protection (each

with 800- to 1,000-gallon tanks), six pumps, and two portable tanks with 2,500- to 3,000-gallon capacities. A cistern has been installed opposite the Lewis and Clark Day-Use Area on West Shore Drive, and a second is planned for the south end of East Shore Drive.

As of October 2002, Reclamation set aside four tracts of land for use as fire stations. Two sites are existing fire stations, one on each side of the reservoir. Two sites are for additional, future satellite fire stations, one on each side of the reservoir. Reclamation is working with the General Services Administration to donate these lands to the Canyon Ferry Fire Service Area. In addition, Reclamation has set aside several sites for additional fire and emergency services. On the west shore, there are five emergency service access easements, two future emergency service turnaround areas, two fire department dry hydrant sites, and one future cistern site. On the east shore, there are six future emergency service turnaround areas, two emergency service access easements, two fire department dry hydrant sites, one future cistern site, one future fire station access roadway easement, and one vehicle turnaround area. All of these sites were dedicated for the public services noted above on Certificate of Survey No. 3006402, recorded September 9, 2001, in the Lewis and Clark County records.

Broadwater County Mosquito Abatement District

Broadwater County formed the Broadwater County Mosquito Abatement District to control mosquitos in the area around Townsend, Montana. Reclamation entered into an agreement with the district to provide mosquito control for Reclamation-controlled lands at the south end of Canyon Ferry Reservoir. The agreement covers about 1,920 acres but concentrates on approximately 300 acres on the southwest corner of the reservoir. Typically, mosquito problems occur when there is a full reservoir pool and low-lying areas are flooded. The agreement specifies that a specific larvacide will be used for the spraying and that a report outlining the amount, location, and timing of the application will be prepared.

PPL Montana (Formerly Montana Power Company)

PPL Montana holds the senior water rights on the Missouri River and, thus, has first rights to the Missouri River flow. Those water rights include flows for seven hydroelectric powerplants below Canyon Ferry Dam. These powerplants are: Ryan, Cochrane, Holter, Morony, Rainbow, Black Eagle, and Hauser. Today, Northwestern Energy supplies power to the reservoir area except for the dam, powerplant, and Canyon Ferry Village, which are supplied by Reclamation.

On December 17, 1999, PPL Montana, a subsidiary of PPL Resources of Allentown, Pennsylvania, and the Montana Power Company signed the final agreement to transfer to PPL Montana 11 hydroelectric powerplants (includes the 7 mentioned above), 1 storage reservoir, and interests in 4 coal-fired powerplants and other related assets. Other assets, in part, included inventories associated with the powerplants.

Aeronautics Division, Montana Department of Transportation

The operation of aircraft on Reclamation lands is prohibited, except on landing areas designated by Reclamation's Regional Director. Except in extreme emergencies, the air delivery of any person on land or water is prohibited without written permission from the Regional Director. This provision does not apply to official Reclamation business or emergency or forced landings; however, it does apply to recreational float plane use. In addition, all designated landing areas shall be marked by posting appropriate signs and landing markers and will be included on State aeronautical maps used by private and commercial aircraft pilots. All Federal Aviation Administration and State standards apply.

The use of Canyon Ferry Reservoir water surface by owners of recreational sea planes would require a special use authorization permit issued by Reclamation. The duration of such a permit and other conditions and stipulations would be included in the use authorization document.

The Aeronautics Division of the Montana Department of Transportation has a permit to conduct public airport activities at the Canyon Ferry air strip, located on the west edge of Silos Recreation Area (see "Affected Environment" under the "Land Use" section of chapter V). The division foresees potential for both recreational and private commercial use of the airport, which would benefit aviation, tourism, and aviation infrastructure in the State.

As of January 2003, Reclamation is working with the Aeronautics Division, Broadwater County, and other interested entities to transfer ownership of the land for continued use as an airport. The Aeronautics Division has indicated that they are not interested in owning additional airports or facilities in Montana.

Montana Office of Public Instruction

In December 1996, Reclamation leased about 10 acres of land near the dam to the Montana Office of Public Instruction (OPI) for 20 years. Reclamation also sold the houses, buildings, and boat ramps to OPI. The land and buildings are located at the Government Camp near the Reclamation office at the reservoir. OPI leases the buildings to the Montana Science Institute, which performs public education and research activities.

Corps of Engineers and Conservation Districts

The Corps of Engineers, conservation districts, and MFWP issue permits through a joint application process for modification, alteration, placement, removal, and other activities near

or within the high water mark of Canyon Ferry Reservoir. This includes boat docks, retaining walls, and other erosion-control structures. The applicability of permitting requirements depends on the project.

Lewis and Clark County Health Department

The Lewis and Clark County Health Department has been actively engaged in design review, issuance of septic system permits, and approval of construction for those Reclamation cabin sites that did not have valid septic system permits.

Other Policies

Reclamation policies also exist for the disposal and use of timber; sand, gravel, and other minerals, and building materials; resolution of unauthorized use and trespass; and use and management of flood plains.

Burning permits on Reclamation lands are issued by the appropriate county. Depending on the magnitude of the area to be burned, the Montana State Air Quality Bureau may need to issue a permit.

ADJACENT LAND USE

Most Reclamation land is adjoined by privately owned land. Most of this land is farmland. The principle use is grazing, with some cropland, mainly small grains. Most of the small grains are located on the east side at the south end of the reservoir. The southwest portion of the reservoir is adjoined by grassland. Some private landowners are developing housing on these grasslands.

Federal lands adjacent to and near the study area are administered by BLM and the U.S. Forest Service (USFS). These agencies manage the lands for multiple use and are responsible for the management of a wide variety of renewable and nonrenewable resources. Some of the resources they manage are soils, water, timber, grazing, minerals, wildlife habitat, recreation, and heritage resources. The USFS and BLM are currently doing a travel management plan for the Big Belt Mountains and the Spokane Hills areas.

The State of Montana administers some lands adjoining Reclamation lands. There are several sections of State land within a mile of the Reclamation boundary. This land is leased for grazing or cropland.